

# United States District Court

for the  
Western District of New York

United States of America

v.

Case No. 21-MJ-1188

Robert Howard and Shirley Howard

*Defendants*

## CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

### COUNT 1

Beginning in or about August 2013 and continuing to in or about July 2019, in the Western District of New York, the defendants, ROBERT HOWARD and SHIRLEY HOWARD, did devise, and intend to devise, a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, and for the purpose of executing such scheme, caused to be transmitted by means of wire communications in interstate and foreign commerce, writings, signals and sounds.

**All in violation of Title 18, United States Code, Section 1343.**

This Criminal Complaint is based on these facts:

☒ Continued on the attached sheet.



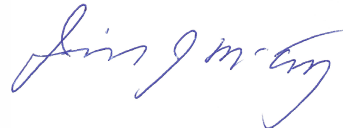
*Complainant's signature*

BENJAMIN J. KABAT  
SPECIAL AGENT  
Social Security Administration

*Printed name and title*

Sworn to before me and signed telephonically.

Date: October 13, 2021



*Judge's signature*

City and State: Buffalo, New York

HONORABLE JEREMIAH J. MCCARTHY  
UNITED STATES MAGISTRATE JUDGE

*Printed name and title*

**AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT**

STATE OF NEW YORK   )  
COUNTY OF ERIE       )       SS:  
CITY OF BUFFALO       )

I, BENJAMIN KABAT, being duly sworn, hereby depose and state as follows:

**INTRODUCTION**

1. I am a special agent with the Social Security Administration, Office of the Inspector General (“SSA/OIG”), assigned to the Office of Investigations in Batavia, NY and have been employed by SSA/OIG as a special agent since February 2018. I am a graduate of Nazareth College. I attended the Criminal Investigator Training Program and the Inspector General Training Program at the Federal Law Enforcement Training Center, Glynco, GA.

2. Prior to my employment as a special agent I was a claims specialist, supervisor and manager in various Social Security Administration (“SSA”) district offices. I began my employment with SSA in 2007.

3. Since becoming a special agent for SSA/OIG, I have been the lead agent in criminal investigations involving the social security fraud, theft of government funds and identity theft. Prior to becoming a special agent for SSA/OIG, I provided support to SSA/OIG as an expert on Social Security policy and procedure.

4. During my career with the SSA/OIG, I have conducted arrests, search warrants, and physical surveillance. I am familiar with the facts set forth below based upon

my own investigative findings and conversations with other participating law enforcement agents.

5. This affidavit is submitted in support of annexed criminal complaint charging Robert HOWARD and Shirley HOWARD (hereafter referred together to as the “HOWARDS”), with violation of Title 18, United States Code, Sections 1343 (Wire Fraud).

6. The facts set forth in this affidavit are based on my own personal knowledge; knowledge obtained from other individuals during my participation in this investigation, including other law enforcement officers; my review of documents and computer records related to this investigation; communications with others who have personal knowledge of the events and circumstances described herein; and information gained through my training and experience. All of the dates, times, and amounts listed in this affidavit are approximate.

7. Because this affidavit is submitted for the limited purpose of establishing probable cause in support of securing a criminal complaint, it does not set forth each and every fact that I or others have learned during the course of this investigation. Rather, it sets forth only the facts that I believe are sufficient to establish probable cause to believe that the HOWARDS have violated Title 18, United States Code, Section 1343 (Wire Fraud) and Title 18, United States Code, Section 1349 (Conspiracy to Commit Wire Fraud).

### **PROBABLE CAUSE**

8. SSA is a federal agency responsible for the administration of Supplemental Security Income (SSI) benefits under Title XVI of the Social Security Act. SSI serves as an income source of last resort for elderly or disabled individuals. SSI eligibility is restricted to

people with limited income and resources, and recipients' countable income reduces their benefit amount. In establishing eligibility and the benefit amount, SSI also considers the financial resources and income of the spouse of SSI recipients if they are living together. In addition, benefits for a married couple, both of whom receive SSI and have no other income, amount to 25 percent less than the total they would receive if they were living apart. SSI beneficiaries are required to report any change in their income, resources and living arrangements to SSA.

9. United States Department of Agriculture (USDA) is a federal agency responsible in part for the administration of Supplemental Nutrition Assistance Program (SNAP, formerly food stamps) benefits. The SNAP program uses federal money to assist low-income individuals by providing funds for the purchase of food. SNAP benefits are determined based on the living arrangement and income of the recipient.

10. On or about June 27, 2019, I was contacted by the SSA District Office in Olean, NY regarding a suspected concealment of living arrangement. SSA had received a report from the Cattaraugus County Department of Social Services (DSS) that the HOWARDS were concealing their living arrangement. For instance, Robert Howard concealed that he lived with his wife, Shirley Howard, and vice versa, in order to receive SSI and SNAP benefits to which they were not entitled.

11. Robert Howard was approved for Title XVI SSI benefits on or about June 29, 1999, his application for Title XVI SSI benefits was filed on or about January 4, 1999.

12. Robert Howard received SNAP benefits starting in 2009.

13. Shirley Howard was approved for Title XVI SSI benefits on or about May 11, 1998, from an application filed on or about September 22, 1995.

14. Shirley Howard received SNAP benefits starting in September 2013.

15. Between August 2013 and July 2019, SSA sent 12 notices to Robert Howard outlining his responsibility to report any change in his income, resources, or living arrangement within 10 days.

16. In a recertification for SNAP benefits on October 21, 2015 with the Cattaraugus County DSS, Robert Howard did not list his wife, Shirley Howard, as living with him.

17. In a recertification for SNAP benefits on October 12, 2017 with the Cattaraugus County DSS Robert Howard did not list his wife, Shirley Howard, as living with him.

18. In redeterminations with SSA on August 3, 2013 and June 20, 2014, Shirley Howard attested by telephone that she was living alone at 801 Main Street, Limestone, NY 14753. In subsequent redeterminations with SSA on July 23, 2015 and July 16, 2016, Shirley Howard also attested by telephone that she was homeless.

19. SSA sent 10 notices to Shirley Howard between June 2013 and June 2019 detailing her responsibility to report within 10 days if there were any changes to her living arrangement.

20. In a signed statement obtained by the Cattaraugus County, NY Sheriff's Office (CCSO) on June 18, 2019, C.W. stated she/he lived with the HOWARDS from approximately October 2018 to March 2019. C.W. further stated she/he has known the

HOWARDS for about seven years and Robert Howard and Shirly Howard have always lived together.

21. In a signed statement obtained by the CCSO on June 18, 2019, N.D. stated the HOWARDS have lived together on Main Street in Limestone, NY for at least 10 years. He/she further stated he/she has not known them to live apart.

22. In a signed statement obtained by the CCSO on June 20, 2019, the HOWARDS stated that they have lived together since June or July 2013. Robert Howard stated that he intentionally omitted Shirley Howard from his food stamp applications on October 21, 2015 and November 20, 2017. Shirley Howard stated she submitted a fraudulent landlord document to DSS stating she lived at 508 Main Street, Limestone, NY 14753, when she did not. She further stated she knew it was wrong not to tell the truth about her address when she applied for benefits.

23. On July 27, 2021, USDA OIG special agent Brian Kees and I conducted an interview of the HOWARDS during which they both stated that they lived together since 2013. The HOWARDS further stated they concealed their living arrangement from SSA and USDA to receive higher SSI and SNAP benefits to which they were not entitled.

24. DSS form LDSS-4778 dated July 12, 2019, reflects various dates between September 2013 and July 2019, where the HOWARDS received \$15,817.00 in SNAP payments to which they were not entitled due to fraudulent information he provided to USDA.

25. SSA form 4904-U2 dated July 26, 2019, reflects various dates between June 2013 and July 2019 where they received \$27,327.42 in SSI payments to which they were not entitled due to their concealment of their living arrangement from SSA.

### **CONCLUSION**

26. Beginning in 2013 and continuing through July 2019, the HOWARDS engaged in a scheme to defraud USDA and SSA by collecting SNAP and SSI benefits under false pretenses and fraudulent representations.

27. The SSI and SNAP programs use federal tax money to assist low-income and disabled individuals by providing supplemental income and funds for the purchase of food, among other things.

28. From 2013 through 2019, the HOWARDS falsely represented in government applications that they did not live together. In reality, Robert Howard and Shirley Howard lived together continuously during that time period. If reported, this fact would have resulted in a reduction in SSI and SNAP benefit payments.

29. As a result of the fraud, between 2013 and July 2019, the HOWARDS unlawfully collected \$27,327.42 in SSI payments and \$15,817.00 in SNAP payments, for a total of \$43,144.42.

30. As part of the fraud, the HOWARDS' SSI payments were wired in interstate commerce into their personal banking accounts. Their SNAP payments were also wired in interstate commerce onto a debit card each controlled.

31. The HOWARDS acted knowingly, in that they knew that by lying about their living arrangement, they unlawfully collected government benefits.

32. Based on the foregoing, there is probable cause to believe that Robert Howard and Shirley Howard committed a violation of Title 18, United States Code, Section 1343 (Wire Fraud) and Title 18, United States Code, Section 1349 (Conspiracy to Commit Wire Fraud). Accordingly, I respectfully request that the Court authorize the complaint and issue of a summons for Robert Howard and Shirley Howard.



BENJAMIN KABAT  
Special Agent  
Social Security Administration  
Office of the Inspector General

Sworn to before me and signed telephonically

this 13 day of October 2021.



HON. JEREMIAH J. MCCARTHY  
United States Magistrate Judge